

PATENT
Customer No. 22,852
Application No. 10/038,834
Filed: January 8, 2002
Attorney Docket No. 4269.0315-00

REMARKS

By the present Amendment, Applicants have amended claim 4 to present it in independent form, including the limitations of independent claim 2 from which claim 4 depends. Applicants have also amended claims 5 and 8 to correct informalities. Claims 18 and 19 were added to protect additional aspects of Applicants' invention. Upon entry of this Amendment, claims 2-19 remain pending, with claims 2-11, 18, and 19 being under current consideration and claims 12-17 being withdrawn as drawn to a non-elected invention.

In the July 27, 2004 Office Action, the Examiner rejected claims 2, 3, and 11 under 35 U.S.C. § 103(a) as obvious over Japanese Patent Publication No. 09-326853 to *Masayuki et al. ("Masayuki")* The Examiner also objected to claim 4 as dependent upon a rejected base claim and allowed claims 5-10. Applicants appreciate the Examiner's indication of the allowed subject matter and submit that rejected claims 2, 3, and 11 are allowable for at least the following reasons.

Objection To Claim 4

Present claim 4 is allowable because it is presented in independent form and incorporates all the limitations identified by the Examiner as allowable. Thus, Applicants respectfully request withdrawal of the objection.

Section 103(a) Rejections

Applicants traverse the Section 103 rejection of claims 2, 3, and 11 over *Masayuki* for at least the following reasons. As the Examiner points out, *Masayuki* "fails to teach the arm member swing about the mounting member support shaft axis," which

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corresponds to a feature recited in each of independent claims 2 and 11. See Office Action dated July 27, 2004, p. 3, lines 9-12. In establishing a *prime facie* case of obviousness, the Examiner improperly relies on *In re Japikse*, 181 F.2d 1019 (C.C.P.A. 1950). According to *In re Japikse*, a relocation of a switch so that it may be operated by a beaver tail part instead of a dog part is "devoid of invention." *In re Lapikse*, 181 at F.2d 1023. While the location of *Masayuki*'s arm member 28 may not be different from one claimed in the present invention, arm member 28 clearly does not "swing about the mounting member support shaft axis," as recited in independent claims 2 and 11. Instead, *Masayuki*'s arm member 28 rotates about axis 29 of base member 24. *Masayuki*, Figs. 2 and 8.

The Examiner further acknowledges that *Masayuki* fails to teach "the base having a plurality of holes," as recited in independent claim 2. But the Examiner fails to identify from where a plurality of holes is otherwise disclosed in *Masayuki*. Nothing in the case cited by the Examiner suggests that adding a plurality of holes is "devoid of invention."

Finally, the Examiner acknowledges that *Masayuki* fails to teach "the latching portion being convexed," as recited in independent claim 2. In reaching this conclusion, the Examiner cites *In re Daily*, 357 F.2d 669 (C.C.P.A. 1966). Applicant submits that the Examiner reliance on this case is also misplaced. In *In re Daily*, the court considered whether different configurations of a disposable nursing container for infants are patentably distinguishable. According to the court, lacking evidence that a particular configuration of the container is significant, one shape is not patentably novel over

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another and is just a “mere matter of choice.” *In re Daily*, 357 F.2d 672. In contrast, however, Applicants’ claimed latching portion being convex is not a mere choice.

Applicants’ latching portion being convex serves a significant role and enables functions not possible to achieve in *Masayuki*. Due to its elasticity, the claimed latching portion may be “flexibly deformed so that the convex portion is fit inside the arm latched portion and engages therewith, the arm latching portion being latched by the engagement of the convex portion in the arm latched portion.” (Applicants’ claim 2).

With this configuration, the arm latching portion is latched with the arm latched portion of the base member by means of the positioning latching portion. As a result, the elastic latching portion is flexibly deformed so that the convex portion is fit inside the arm latched portion and may be engaged. Therefore, once the arm member is latched with the base member by the arm latching portion, the angular position that has been set can be maintained even if the electronic equipment is lifted or moved. Thus, the latching of the arm member with the base member is not released inadvertently by a lift of the electronic equipment and by being carried by a user. To release the latching, the user must intentionally perform the operation of releasing the latching. (See, for example, specification, p. 8, lines 14-24).

In contrast, the engagement protrusions 30 of *Masayuki*, as shown in Figs. 1 and 2, are merely inserted into the engagement holes 10 and 11, which do not have a latching mechanism. Without the latching mechanism, when a user lifts the telephone set 1, the engagement protrusions 30 may come out from the latching holes 10 and 11.

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As a result, the latching of the telephone set 1 with the supporting member 28 can easily be released and they become separated.

For at least these reasons, claim 2 is patentable over *Masayuki* and the rejection thereover should be withdrawn. Further, claim 3 is patentable at least due to its dependency from claim 2.

Claim 11 recites, among other things, the base member comprising “a falling-out prevention portion for preventing the arm member from coming out;” and the arm member comprising “an arm pulling-out prevention portion which engages the falling-out prevention portion of the base member.”

With respect to claim 11, the Examiner alleges that, in *Masayuki*, the base member comprises a falling-out prevention portion 29 for preventing the arm member from coming out, and the arm member comprises a receiving portion that receives the portion 29.

However, as shown in Fig. 2 of *Masayuki*, the portion 29 is a shaft provided in the base 26, by which the supporting member 28 is rotatably supported. Thus, the portion 29 is not configured or designed as a falling-out prevention structure. Moreover, the angle adjusting device of *Masayuki* does not have a falling-out preventing portion. More specifically, when the engagement protrusions 30 of the supporting member 28 come out from the engagement holes 10 and 11, the telephone set 1, the base 26, and the supporting member 28 become separated from each other.

For at least these reasons, claim 11 is patentable over *Masayuki* and the rejection thereover should be withdrawn.

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Finally, Applicants submit that new claims 18 and 19 contain recitations similar to those in claims 2 and 11, respectively, and are therefore also patentable for at least the reasons set forth above regarding claims 2 and 11.

In making reference to the specification herein, Applicants in no way intend to limit the scope of the claims to the exemplary embodiments shown in the drawings and described in the specification. Rather, Applicants expressly affirm that they are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

In view of the foregoing remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of all the pending claims.

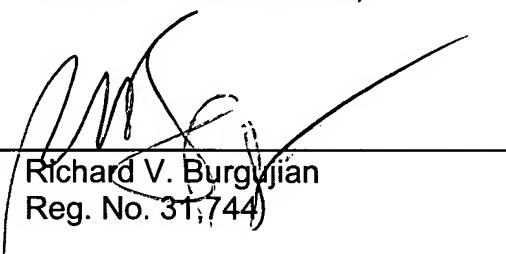
Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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